

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 13-6283

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

KAREEM JAMAL CURRENCE,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Richmond. James R. Spencer, District Judge. (3:05-cr-00231-JRS-1)

Submitted: June 20, 2013

Decided: June 26, 2013

Before DUNCAN and DAVIS, Circuit Judges.*

Dismissed by unpublished per curiam opinion.

Kareem Jamal Currence, Appellant Pro Se. Brian R. Hood, OFFICE OF THE UNITED STATES ATTORNEY, Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

* The opinion is filed by a quorum of the panel pursuant to 28 U.S.C. § 46(d) (2006).

PER CURIAM:

Kareem Jamal Currence, a federal prisoner, seeks to appeal the district court's order construing his petition for a writ of audita querela as a successive and unauthorized 28 U.S.C.A. § 2255 (West Supp. 2012) motion. Currence has also filed a motion for a transcript at Government expense. The district court's order is not appealable unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1)(B) (2006). A certificate of appealability will not issue absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (2006). When the district court denies relief on the merits, a prisoner satisfies this standard by demonstrating that reasonable jurists would find that the district court's assessment of the constitutional claims is debatable or wrong. Slack v. McDaniel, 529 U.S. 473, 484 (2000); see Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003). When the district court denies relief on procedural grounds, the prisoner must demonstrate both that the dispositive procedural ruling is debatable, and that the motion states a debatable claim of the denial of a constitutional right. Slack, 529 U.S. at 484-85.

We have independently reviewed the record and conclude that Currence has not made the requisite showing. Accordingly, we deny a certificate of appealability, deny Currence's motion

for a transcript at Government expense, and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

DISMISSED